

Date: February 8, 2000

DSL-BQA-00-013
Replaces DSL-BQA-98-005

To: Hospitals

HOSP 5

From: Susan Schroeder, Director
Bureau of Quality Assurance

Security Issues in Psychiatric Treatment Facilities:

DSL-BQA-98-005, dated January 26, 1998, was issued to remind hospitals of their responsibilities to provide sufficient staffing levels and adequate staff training in psychiatric treatment areas to deal effectively with disruptive and aggressive patient behaviors. This memo responds to questions posed by hospitals and law enforcement personnel and replaces DSL-BQA-98-005.

The routine presence of weapons, including firearms, pepper agents (spray and foam) and stun guns in a psychiatric treatment facility is not acceptable. Such practice is contrary to Wisconsin Administrative Code, section HFS 94.24(1), which states:

Treatment facilities shall provide patients with a clean, safe and humane environment...

and also violates section HFS 94.24(2), which provides that:

Staff shall take reasonable steps to ensure the physical safety of all patients.

The state requirement applying to all hospitals in Wisconsin is found at section HFS 124.13(1)(c)1:

An adequate number of registered nurses shall be on duty at all times to meet the nursing care needs of the patients. There shall be qualified supervisory personnel for each service or unit to ensure adequate patient care management.

The state requirement applying to freestanding psychiatric hospitals in Wisconsin is found at section HFS 124.26(3)(a):

The hospital shall have enough staff with appropriate qualifications to carry out an **active program of psychiatric treatment** for individuals who are furnished services in the facility [emphasis added].

The federal requirements for hospitals participating in the Medicare program are as follows:

42 CFR 482.13(f)(6): All staff who have direct patient contact must have ongoing education and training in the proper and safe use of seclusion and restraining application and techniques and alternative methods for handling behavior, symptoms, and situations that traditionally have been treated through the use of restraints or seclusion.

42 CFR 482.62: The hospital must have adequate numbers of qualified professional and supportive staff to evaluate patients, formulate written, individualized comprehensive treatment plans, provide active treatment measures and engage in discharge planning.

Although hospitals accredited by the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) are deemed to meet Medicare standards, they are not exempt from federal and state requirements. Neither law enforcement nor security personnel should routinely possess weaponry in psychiatric treatment areas. During routine situations on a psychiatric unit, when law enforcement personnel wish to retain their weapons, the hospital is expected to work with law enforcement in their community to develop alternatives. Wherever possible, psychiatric patients should be removed from areas where law enforcement personnel are performing official activities such as investigating crime scenes on a patient care unit.

Occasional disruptive or aggressive behavior by psychiatric patients against other patients, themselves, staff, or visitors is to be anticipated and planned for. Hospitals must develop policies and procedures for the management of these special incidents. The presence of weaponry on a psychiatric unit poses potential hazards to patients, both physically and psychologically. Law enforcement personnel should not be expected to deal with psychiatric patient management on the treatment unit. Use of armed law enforcement personnel should be limited to extreme emergencies where they may be needed to ensure public safety.

Although the use of pepper agents is commonly considered a safe method for subduing individuals, special care must be exercised when subduing persons with health care needs. Although there are no national statistics available, at least 70 people are reported to have died in the USA after being subjected to pepper agents during arrest or while in police custody. While most of the deaths have been attributed to factors such as drug intoxication or positional asphyxia, or were unexplained, there is concern that pepper agents may be a contributing factor in some cases. Persons with asthma, epilepsy, lung conditions, heart conditions, taking prescription medicine, under the influence of drugs, and pregnant women should never be exposed to pepper agents.¹

All hospitals must have adequate policies and procedures to meet applicable state and federal regulations to ensure a safe environment for the specialized needs of patients as well as staff.

Recommendations:

- Hospitals are encouraged to develop a written agreement with local law enforcement personnel to address the issue of weapons on psychiatric units.
- Hospitals may want to offer a lock box that is secured by the law enforcement officer for the storage of firearms, stun guns, pepper agents, or other weaponry devices when an officer's presence is necessary on a psychiatric unit. If officers do choose to retain their weapons, the hospital should attempt to minimize any safety risks to patients.
- Where possible, hospitals are encouraged to offer a secure, off-unit area for law enforcement personnel to utilize in meeting with a patient in an official capacity. In these situations, the hospital should provide staff that would accompany the patient during interviews with police officers.

¹ National Institute of Justice, Technology Assessment Program, 3/94

- Hospitals may want to provide a double-door arrangement outside of the psychiatric unit or another designated place to exchange the custody of patients so that law enforcement personnel would not need to enter an unsecured treatment unit or relinquish their weaponry.
- Hospitals should not use law enforcement personnel to remedy their lack of adequate staff to manage patient behavior on psychiatric units.
- Hospitals should provide all staff with training regarding the new Federal Conditions of Participation for Patient Rights, especially those rights regarding the use of restraint or seclusion.

Summary

Psychiatric unit policies and procedures; adequate staffing levels, including backup staffing; and effective training of staff to safely de-escalate and contain problem situations are essential elements of effective inpatient psychiatric treatment. The use of security staff (contract or internal) is not a substitute for qualified patient care staff.

The routine presence of weaponry, including firearms, pepper agents and stun guns, even in the possession of a trained law enforcement or security officer, is not an acceptable situation in psychiatric treatment areas. Hospitals that are out of compliance with state and federal regulations are encouraged to develop policies and procedures and to implement necessary changes. Changes *may* be indicated in physical environment, staff training in both verbal de-escalation and alternatives to restraint or seclusion, training of hospital security staff (employee or contract) in patient rights, protective equipment for staff, cross-training other hospital staff in safe restraint techniques as back-up, and/or quality assurance studies to identify staffing needs and times of increased risk.

The Wisconsin Professional Police Association has conveyed to the Bureau of Quality Assurance that their membership prefers to not be utilized in addressing routine behavioral management issues on psychiatric treatment units due to the specialized needs of the patient population. A cooperative working relationship with local law enforcement is one of the many tasks hospitals must undertake to assure the welfare and safety of patients being treated for mental illness or substance abuse. Each hospital remains responsible for working with the unique reality of their particular service area and patients.

Please share this information with appropriate staff. You are welcome to contact the Health Services Section at (608) 266-8084 or Helen Brewster, ACSW, at (608) 267-1443 to discuss any aspect of this matter.